

Application No. 10/542,127
Paper dated November 29, 2007
Response to Office Action dated August 29, 2007
Attorney Docket No. 4544-052144

REMARKS

Claims 1-6 are pending in the instant application. In response to the Office Action of August 29, 2007, Applicant submits this Amendment, which amends claims 1-5 and cancels claim 6.

The Office Action has rejected claims 1-6 under 35 U.S.C. § 112, first and second paragraphs. In view of the foregoing amendments, below remarks and the acknowledgment that the claimed invention is free from prior art (Office Action at page 4), Applicants respectfully request reconsideration and withdrawal of the rejections, and a Notice of Allowance.

Claims 1-6 were rejected under 35 U.S.C. § 112, first paragraph, as purportedly failing to enable a skilled artisan to prevent atherosclerosis and hyperlipidemia. Applicant respectfully disagrees because a skilled artisan would understand that by practicing the claimed invention on a subject who is predisposed to atherosclerosis and hyperlipidemia, atherosclerosis and hyperlipidemia can be prevented. Notwithstanding this traversal, Applicant has amended claim 1, and claims 2-5 *vis-à-vis* the amendment to claim, to recite “a polyherbal preparation for ~~the prevention of treating and/or reducing the risk of~~ atherosclerosis and hyperlipidemia” As acknowledged on page 2 of the Office Action, the Specification enables one skilled in the art to make and use a polyherbal preparation for treating and/or reducing the risk of atherosclerosis and hyperlipidemia.

Since claim 6 has been canceled, this rejection, as it pertains to claim 6, is moot.

Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1-6 have been rejected under 35 U.S.C. § 112, second paragraph, as purportedly indefinite. Particularly, claim 1 has been rejected as being indefinite because it purportedly fails to recite any operative amount of the claimed herbals. Applicant respectfully traverses this rejection because a skilled artisan would understand that an effective amount must be administered, and can derive an effective amount through routine experimentation. Notwithstanding this traversal, Applicant has amended claim 1 to recite “an effective amount of,” as suggested in the Office Action on page 3. Additionally, the spelling of “Terminalia” has been corrected in claim 1.

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Claims 2 and 5 have been rejected as purportedly being indefinite because the limitation "the constituents" purportedly lacks antecedent basis. The recitation of "the constituents" has been deleted from claims 2 and 5, and replaced with "Commiphora mukul, Boswellia serrata, Semecarpus anacardium Strychnos nux vomica, Terminalia arjuna and Shankha Bhusma."

Claim 3 has been rejected as purportedly being indefinite because the phrase "a polyherbal preparation as claimed in claim 1 comprising Rubia cordifolia" is purportedly unclear. As suggested on page 4 of the Office Action, Applicant has amended claim 3 to recite "... further comprising"

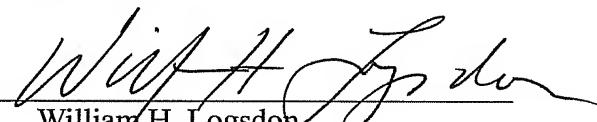
Claim 4 has been rejected as purportedly being indefinite because "... the following constituents ..." purportedly lacks antecedent basis. Applicant has deleted the recitation of "the following constituents" from claim 4 and replaced it with "... Rubia cordifolia, Bacopa monnieri, Triphala and Trikatu"

In view of the foregoing amendments and remarks, Applicant respectfully submits that all pending claims in the instant application are in condition for allowance. Accordingly, reconsideration and withdrawal of the rejections, and a Notice of Allowance are respectfully requested. Should the Examiner have any questions or concerns, the Examiner is invited to contact Applicants undersigned attorney by telephone at 412-471-8815.

Respectfully submitted,

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